



UNITED STATES PATENT AND TRADEMARK OFFICE

SW
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------------|
| 09/684,462 | 10/06/2000 | Mark A. Kottman | 087522785134 | 3279 |
| 7590 | 11/25/2003 | | | EXAMINER |
| Russell L. McIlwain Jones, Day, Reavis & Pogue 77 West Wacker Chicago, IL 60601-1692 | | | | HORTON, YVONNE MICHELE |
| | | | ART UNIT | PAPER NUMBER |
| | | | | 3635 |

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 09/684,462 | Applicant(s) Mark A. Kottman |
| | Examiner YVONNE M. HORTON | Art Unit 3635 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (e). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Sep 8, 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6 and 8 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-6 and 8 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) Other: _____

Art Unit: 3635

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 1-3 and 8 is withdrawn in view of a more definitive review of the references to SYKES, SEIBER et al. and BULLWINKLE. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent #4,905,428 to SYKES in view of either US Patent #5,899,036 to SEIBER et al. Or

#5,901,512 to BULLWINKLE. SYKES discloses the method of constructing a wall panel

including the steps of providing a rectangular frame (11-13) comprised of rigid channel members

(23,24,25,26,27) and lower channel member (34); providing and securing a base rail (58) in

Art Unit: 3635

spaced relation to the lower channel member (34); providing the lower channel member (34) with a pair of recesses (41,151) in registry with a threaded member (146), column 9, lines 41-44; inherently placing the frame (11-13) and base rail in vertical orientation; inserting a tool (wrench or the like column 9, line 43) vertically into apertures (41,151); and inherently rotating the tool to level the frame (11-13). SYKES discloses the basic claimed method except for the steps of providing a pair of glide assemblies. Both SEIBER et al. and BULLWINKLE teach the step of providing a pair of glide assemblies (33),(66) respectively. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the panel of SYKES with the guide assembly of either SEIBER et al. or BULLWINKLE in order to enhance maneuverability of the panel with respect to the supporting surface. The device of SYKES is merely a threaded screw that rests upon the support surface. A screw could scratch some surfaces and become hindered by other surfaces such as carpet. Regarding claim 2, SYKES includes the step of attaching a decorative panel (54) to the frame (11-13). In reference to claim 3, SYKES further includes the step of attaching a base panel (56,58) to the lower channel (34). Hence, in considering the modification of SYKES in view of either SEIBER et al. or BULLWINKLE, the base panels (56,58) would inherently conceal the glide assemblies of either SEIBER et al. or BULLWINKLE.

Claim Rejections - 35 USC § 102

5. Claims 4-6 stand as being rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,381,994 to WELCH. WELCH discloses the use of a modular wall panel including a

Art Unit: 3635

lower channel member (30), a base rail (40) disposed beneath the lower horizontal member (30), a connector (60) including a threaded sleeve (SL); wherein the connector (60) also serves as an adjustment member. The connector/adjustment member (60) having an upper threaded portion, and the base rail includes a aperture (33,44) that can inherently receive a tool. Regarding claims 5 and 6, the lower member (30) has a base panel (10) attached thereto.

Response to Arguments

6. Applicant's arguments filed 9/08/03 have been fully considered but they are not persuasive. In regards to the applicant's argument that sleeve (100), the action was in error. However the rejection has be adjusted to include the intended element number. This new rejection sets fourth that the threaded sleeve is indication as element number (SL).
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

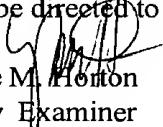

Yvonne M. Horton
Primary Examiner
Art Unit 3635
November 17, 2003

FIG. 2

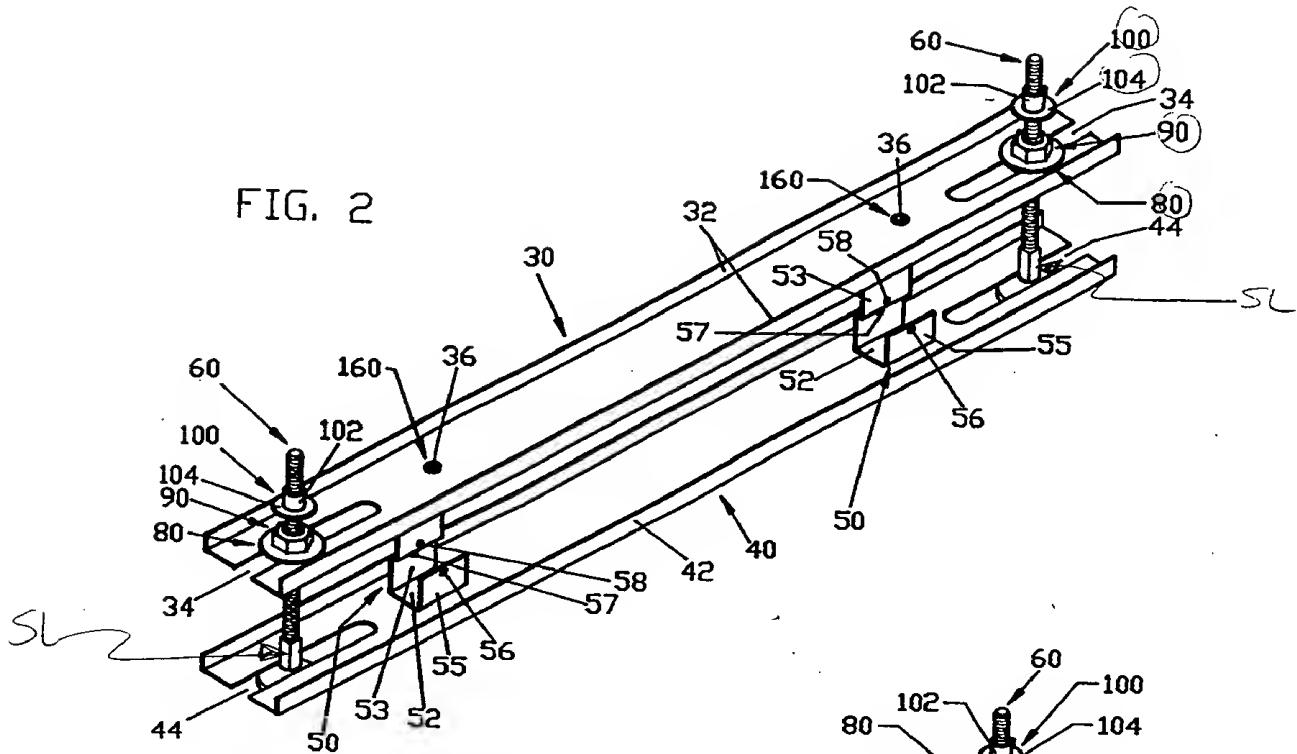


FIG. 3

